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Testimony of
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Raised Bill No. 5527
An Act Concerning Crimes Committed While on Pretrial Release
JUDICIARY PUBLIC HEARING - MARCH 7, 2014

The Office of Chief Public Defender opposes the passage of *Raised Bill 5527, An Act Concerning Crimes Committed While On Pretrial Release* because it seeks to change the state's erasure statute, C.G.S. §54-142a and allow prosecutors to use previously erased police, court, and state's attorney records in order to make it easier to obtain higher prison sentences when a person is arrested while released on a pending case. This change is unnecessary and would be contrary to legislative intent, subjecting persons to the negative consequences which flow from criminal charges which do not result in conviction.

The State Supreme Court has spoken with clarity on this issue in State vs. Seth Apt, 319 Conn. 494, (2015), decided in November. The Court explained that the legislature intended to "insulate people who are arrested but never convicted from the adverse societal consequences that result from having an arrest record. This history makes clear that the purpose of the erasure statute ... is to protect innocent persons from the harmful consequences of a *criminal charge* [that] is subsequently dismissed."

The proposed change is unnecessary. The Court in Apt explained that the erasure and disclosure statutes do not prevent prosecutors from seeking enhanced sentences by using evidence **other than erased records**. Prosecutors may call witnesses or seek to introduce other types of evidence to demonstrate that a higher sentence is warranted under C.G.S. §53a-40b for persons committing a new offense while released on a pending case.

The proposed change may negatively impact due process in our courts. Public policy favors timely prosecution of criminal charges and prosecutors will have less incentive to resolve these cases expeditiously if they have indefinite access to such records for the purpose of seeking higher prison sentences. Therefore, the Office of Chief Public Defender strongly urges this Committee not to act favorably on this bill.